

## GOVERNMENT OF ANDHRA PRADESH

**ABSTRACT**

PUBLIC SERVICES – Prohibition & Excise Department – Sri Mir Farooq Ali, Assistant Prohibition & Excise Superintendent (Retired) – Assigning notional date of promotion in the adhoc panel of Assistant Prohibition & Excise Superintendents of Multi Zone-III with effect from 01.09.1996 on par with his junior – Orders - Issued.

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REVENUE (EXCISE-I) DEPARTMENT

**G.O.Ms.No. 1216.**

**Dated 30-11-2009**

Read the following:

1. From the Government Pleader for Services-II, APHC Lr.WP.No.14663/2000/CSB/Ser.II/CD, dated 24.9.2003 along with certified copy of the Judgement in W.P.No.14663/2000 dated 19.8.2003 filed by Sri Mir Farooq Ali.
2. Representation of Sri Mir Farooq Ali, P&EI, dated 15.9.2003, 05.10.2003 & 16.12.2003.
3. Government Memo.No.41431/Ex.I(2)/2003-3, dated 30.12.2003
4. From the CPE, Hyderabad Letter Cr.No.7557/1998/CPE/L2, dated 16.02.2004.
5. Government Memo.No.41431/Ex.I(2)/2003-5, dated 03.03.2004
6. From the CPE, Hyderabad Letter Cr.No.7557/1998/CPE/L2, dated 8.7.2004.
7. Government Memo.No.41431/Ex.I(2)/2003-8, dated 31.7.2004.
8. From the CPE, Hyderabad Letter Cr.No.7557/1998/CPE/L2, dated 21.8.2007.
9. Government Memo.No.39762/Ex.I(2)/2003-14, dated 11.02.2008.
10. From the CPE, Hyderabad Letter Cr.No.7557/1998/CPE/L2, dated 26.4.2008 along with Proceedings of the Review Screening Committee held on 15.02.2008
11. Government Memo.No.39762/Ex.I(1)/2003-15, dated 5.9.2008
12. From the CPE, Hyderabad Letter Cr.No.7557/1998/CPE/L2, dated 15.7.2009

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**ORDER:**

Sri Mir Farooq Ali, Asst. Prohibition & Excise Superintendent (Retired) while working as Excise Inspector preferred a claim for restoration of his Seniority from the date when he joined as LDC on 15.2.1971 in the Animal Husbandry Department and consequential benefits for notional promotion as Senior Assistant / Office Superintendent and Assistant Excise Superintendent on par with his juniors. The Deputy Commissioner of Prohibition & Excise, Hyderabad had fixed his seniority in Junior Assistant cadre from the date of joining in Excise Department on 7.6.1974. The Hon'ble A.P. Administrative Tribunal in R.P.No.1806/86 dated 24.4.1987 directed to review the seniority taking into consideration the service put in by him in Animal Husbandry Department. The Government in Memo.No.112021/Ex.I/90-10, dated 28.6.1993 issued orders that the case of Sri Farooq Ali for notional seniority in the cadre Senior Assistant and Office Superintendent be considered with effect from the date on which his juniors in the category were promoted by issuing show-cause notices to the persons likely to be affected. Consequent on issue of show cause notices to the affected persons, they have approached the APAT and the APAT in O.A.No.2790/96 dated 13.8.1996

suspended the notices issued by the Deputy Commissioner, Hyderabad on 3.5.1996. The Hon'ble APAT on 23.2.2000 while disposing the OAs ordered that Sri Mir Farooq Ali is not entitled to claim notional promotion.

2. Aggrieved by the said order of the APAT, Sri Mir Farooq Ali has filed W.P.No.14663/2000 and the Hon'ble High Court in its Judgement dated 19.8.2003 while setting aside the orders of the Hon'ble APAT directed that the petitioner is entitled to reckon his seniority from the date when he joined in the Animal Husbandry Department which become final by virtue of order passed by the Tribunal in R.P.No.1809/87 dated 24.4.1987 on the basis of which the Government have proceeded with the matter and passed the impugned orders dated 03.08.1996 which is in accordance with rules, and Hon'ble High Court found no infirmity in the said order.

3. The Commissioner of Prohibition & Excise, A.P., Hyderabad has filed Review Petition to review the Judgement dated 19.8.2003 in W.P.No.14663/2000. The High Court has dismissed the Review Petition in R.P.No.3896/2004 dated 11.2.2004 and directed in C.C.No.1516/2003 to implement the orders within a period of two weeks. In compliance, Sri Mir Farooq Ali was promoted as AP&ES on adhoc basis on 16.2.2004. The individual has retired on attaining the age of superannuation on 31.3.2004.

4. In the reference 2<sup>nd</sup> read above, Sri Mir Farooq Ali, Asst. Prohibition & Excise Superintendent (Retired) had requested to consider his notional promotion in the category of Asst. Prohibition & Excise Superintendent with effect from 31.8.1990 on which date Sri G.Narsimha Rao, who is junior to him in the cadre of Office Superintendent, was promoted as Asst. Prohibition & Excise Superintendent.

5. In the reference 9<sup>th</sup> read above, Government have directed the Commissioner of Prohibition & Excise, A.P., Hyderabad to place the matter before the Review DPC if he is eligible for notional promotion in the category of Asst. Prohibition & Excise Superintendent duly following the due procedure and to send proposals to the Government for relaxation of Rule-33(a) of APS&SS Rules, 1996, if the Review DPC recommends the case of the individual for notional promotion.

6. In the reference 10<sup>th</sup> read above, the Commissioner of Prohibition & Excise, A.P., Hyderabad has stated that the Review Screening Committee met on 15.4.2008 to review the approved panel of AP&ESs for the panel year 1989-90 of Multi Zone-III. The Review Screening Committee recommended for inclusion of Sri Mir Farooq Ali, Asst. Prohibition & Excise Superintendent (Retired) in the approved panel of AP&ESs of MZ-III for the year 1989-90 in place of Sri G.Narsimha Rao. The Commissioner of Prohibition & Excise has further stated that Sri G.Narisimha Rao, Office Superintendent was promoted as Asst. Prohibition & Excise Superintendent in the Review Screening Committee held on 30.8.1990. He has joined as AES on 1.9.1990. In the seniority list of Asst. Prohibition & Excise Superintendent from 1991-92 to 1999-2000 issued on 19.12.2005, Sri G.Narsimha Rao has been placed at Sl.No.6 with date of regularization from 01.09.1996. In the Integrated Seniority List of Asst. Prohibition & Excise Superintendents the name of Sri G.Narsimha Rao was placed at Sl.No.15. He was subsequently promoted as Prohibition & Excise Superintendent during April 2005 and retired from service on attaining the age of superannuation on 31.3.2006.

7. Government have examined the above recommendation of the Review Screening Committee and included the name of Sri Mir Farooq Ali in the adhoc panel of Asst. Prohibition & Excise Superintendent of MZ-III for the panel year 1989-90 on par with his junior as recommended by the Review Screening Committee held on 15.4.2008. Accordingly, in the

reference 11<sup>th</sup> read above, the Commissioner of Prohibition & Excise was requested to issue notices to the persons likely to be affected (only to in-service candidates) as per Rule-24(c) of A.P. State & Subordinate Service Rules, 1962 for inclusion of the name of Sri Mir Farooq Ali in the adhoc panel of Asst. Prohibition & Excise Superintendents of MZ-III for the year 1989-90 on par with his junior. He was also requested to examine the objections received if any and furnish his remarks along with proposals, if necessary, for relaxation of Rule-33(a) of APS&SS Rules, 1996 in favour of the individual so as to assign notional date of promotion in the cadre of Assistant Prohibition & Excise Superintendent.

8. In the reference 12<sup>th</sup> read above, the Commissioner of Prohibition & Excise, A.P., Hyderabad has stated that notice has been published in AP Extraordinary Gazette No.21 dated 09.01.2009 and dispatched to all the affected parties. He has stated that no objections were received in the matter. The Commissioner of Prohibition & Excise has therefore, requested to issue necessary orders to assign notional date of promotion to Sri Mir Farooq Ali in the cadre of Assistant Prohibition & Excise Superintendent in relaxation of Rule-33(a) of APS&SS Rules, 1996 in favour of the individual.

9. Government, after careful examination of the matter and in compliance of the orders of the Andhra Pradesh High Court dated 19.8.2003 in W.P.No.14663/2000, hereby consider the request of Sri Mir Farooq Ali, Asst. Prohibition & Excise Superintendent (Retired) to assign notional seniority in the category of Asst. Prohibition & Excise Superintendent with effect from 01.09.1996 on par with his junior Sri G.Narsimha Rao.

10. Accordingly, Sri Mir Farooq Ali, Asst. Prohibition & Excise Superintendent (Retired) is hereby assigned notional date of promotion in the category of Assistant Prohibition & Excise Superintendent with effect from 01.09.1996 on par with his junior Sri G.Narsimha Rao, in relaxation of Rule-33(a) of the A.P. State & Subordinate Service Rules, 1996.

11. The Commissioner of Prohibition & Excise, A.P., Hyderabad shall take necessary further action in the matter.

12. The above promotion is subject to the outcome of SLPs /WPs /OAs /CAs /RPs etc., pending in the Hon'ble Supreme Court/ High Court/Tribunal, as the case may be.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

ASUTOSH MISHRA  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
The Commissioner of Prohibition & Excise, A.P., Hyderabad  
The individual through the CPE, A.P., Hyderabad  
Sf/Sc

// FORWARDED :: BY ORDER //

SECTION OFFICER